THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

AND

THE HON'BLE SRI JUSTICE D.APPA RAO

-

WRIT PETITION No. 9922 OF 2006

Dated 23rd May 2006

Between:

M/s.Ch.Veerraju & Co., Rajahmundry

…Petitioner

and

The Joint Commissioner (CT) Legal,

Andhra Pradesh, Hyderabad & another.

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No. 9922 OF 2006

O R D E R: (per LNR,J)

The petitioner was subjected to assessment of commercial tax, through order dated 22.3.2002, passed by the Commercial Tax Officer, Aryapuram Circle, Rajahmundry, the 2nd respondent herein. It was held that the petitioner is liable to pay balance tax of Rs.16,21,510/-. Aggrieved thereby, the petitioner preferred an appeal before the Appellate Deputy Commissioner (Commercial Taxes)

Visakhapatnam. The appeal was dismissed, through order dated 28.2.2005. Thereupon, the petitioner preferred a second appeal before the Appellate Tribunal. As provided for under Section 19(2-C) of the A.P. General Sales Tax Act, the petitioner filed an application for grant of stay, before the Joint Commissioner (Commercial Taxes), Legal, the 1st respondent herein. The 1st respondent rejected the application for stay, through the order dated 28.4.2006. The same is challenged in this writ petition.

Heard the learned counsel for the petitioner and learned Special Government Pleader for Taxes.

It is not in dispute that the petitioner deposited 50% of the disputed amount, when it preferred appeal before the Appellate Deputy Commissioner. Consequent upon the dismissal of the appeal, it preferred the second appeal, before the Appellate Tribunal. For all practical purposes, the second appeal is treated in continuation of the first appeal itself, and the state of affairs obtaining during the pendency of the first appeal, needs to be maintained, unless extraordinary circumstances warrant, otherwise. This court does not find any basis to deviate from the normal course. The interests of the State can be said to have been adequately protected, with the deposit of 50% of the amount by the petitioner. If it is required to deposit the entire amount, virtually nothing remains to be decided, in the second appeal.

For the foregoing reasons, the writ petition is disposed of, directing that there shall be stay of enforcement of the impugned order of assessment, pending the second appeal before the Sales Tax Appellate Tribunal. There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

(D.APPA RAO, J)

Dt. 23.5.2006

Note: Issue C.C. by tomorrow

(B/o)

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